Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Fletcher	Analyst:	Matthew Cooling	Bill Number:	AB 1088
Related Bills:	See Legislative History	Telephone:	845-5983	Introduced Date:	February 27, 2009
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: New Voluntary Contribution Fund/Veteran's Fund

SUMMARY

This bill would allow taxpayers to make voluntary contributions to the unnamed Fund on their state personal income tax returns.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to re-establish the Veterans' Quality of Life Fund, under a new name, and to allow taxpayers to make voluntary contributions to this fund to provide additional financial support for the veterans' homes.

EFFECTIVE/OPERATIVE DATE

Assuming enactment in 2009, this bill would be effective on January 1, 2010, and operative as of that date.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Current federal tax law provides a true check off to direct $3 of a taxpayer's tax liability to the Presidential Campaign Fund. Designation of the $3 amount does not affect a taxpayer's tax liability or refund amount.

Current state tax law allows taxpayers to make contributions of their own funds (not tax liability) on their personal income tax returns to any of the 15 voluntary contribution funds (VCF) listed on the 2008 state personal income tax return (return).

Board Position:			Department Director	Date
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______ N	______ OUA	__X__ PENDING		

With the following exceptions, VCFs remain on the return until they are either repealed or fail to meet their minimum contribution amount:

- Except for the California Seniors Special Fund, which has no sunset date, each VCF has a specific sunset date.
- Except for the California Seniors Special Fund, the California Firefighters Memorial Fund, and the California Peace Officer Memorial Foundation Fund, each VCF must meet an initial minimum contribution amount of $250,000.
- Except for the California Fund for Senior Citizens, each of the remaining VCF minimum contribution amounts is adjusted annually for inflation.

The annual inflation adjustment is based on the percentage change in the California Consumer Price Index. The Franchise Tax Board (FTB) is required to make the following two determinations for each VCF by September 1 of each calendar year:

1. The minimum contribution amount required for the VCF to remain on the return for the following calendar year, and
2. Whether estimated contributions to the VCF will be less than the minimum contribution amount for that calendar year.

If FTB estimates that a VCF will fail to meet or exceed the minimum contribution amount for a calendar year, that VCF is repealed effective January 1 of that calendar year.

Current state law provides that if the number of contingent voluntary contribution designations[1] that are eligible to be added to the personal income tax return is greater than the number of designations removed, then the voluntary contribution designations will be queued and added to the return in order of the date of enactment.

THIS BILL

This bill would establish the unnamed Fund and would allow taxpayers to designate their own funds (not tax liability) for contribution to the fund on their personal income tax returns in full dollar amounts of $1 or more. Each signatory on a joint return may make the contributions individually. The designations for any taxable year must be made on the initial return for the taxable year and, once made, are irrevocable.

For the second taxable year the fund is on the return, this bill would require the fund to meet the $250,000 minimum contribution test. FTB is required to estimate by September 1 of any calendar year after the first taxable year the fund appears on tax returns that contributions made under this bill will be less than $250,000 (as indexed for inflation beginning the third calendar year). The law authorizing designations for this fund would be repealed if contributions made under this bill would be less than the minimum contribution amount.

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[1] A contingent voluntary contribution designation is a voluntary contribution designation that contains specific language stating that it may not be added to the return until another voluntary contribution designation is removed from the return.

Department staff has indicated that existing tax forms lack space to accommodate additional voluntary contribution designations. As a result, this bill would require the unnamed Fund designation to be added to a queue as a contingent VCF designation, as specified in current state law. This bill would allow the voluntary contribution designation to remain on the personal income tax return for five years unless a later enacted statute deletes or extends that date.

This bill would specify that if payments and credits reported on the return do not exceed the taxpayer's liability, then the taxpayer's return shall be treated as if no designation has been made. If no designee is specified, a designated contribution amount would be transferred to the General Fund.

This bill would require the Controller to transfer money designated for this fund by taxpayers from the Personal Income Tax Fund to the unnamed Fund. This bill would also allow any funds remaining in the Veterans Quality of Life Fund to be transferred to the unnamed Fund, as specified.

IMPLEMENTATION CONSIDERATIONS

Because this bill contains language that would allow the department to add the unnamed Fund when space is available on the personal income tax return, implementing this bill would not impact the department's programs and operations.

TECHNICAL CONSIDERATIONS

Amendment 1 would clarify how FTB shall estimate the amount of contributions made to the unnamed Fund.

LEGISLATIVE HISTORY

AB 292 (Yamada, 2009/2010) would extend the repeal date of the Alzheimer's Disease and Related Disorders Research Fund from January 1, 2010, to January 1, 2015. This has been referred to the Assembly Appropriations Committee.

AB 1049 (Torrico, 2009/2010) would create a VCF designation on the personal income tax return for taxpayers to contribute to the Safely Surrender Babies Fund. This bill has been referred to the Assembly Committee on Health.

SB 91 (Correa, 2009/2010) would extend the repeal date of the California Fund for Senior Citizens from January 1, 2010, to January 1, 2015. This bill has been referred to the Senate Appropriations Committee.

SB 516 (DeSaulnier, 2009/2010) would create a VCF designation on the personal income tax return for taxpayers to contribute to the California Fund for Youth. This bill has been re-referred to the Senate Revenue and Taxation Committee.

AB 357 (Horton, Stats. 2005, Ch. 143) created a designation that allowed taxpayers to contribute funds to the Veterans' Quality of Life Fund. This act was repealed in 2007 because it failed to meet the minimum contribution amount.

PROGRAM BACKGROUND

Fifteen voluntary contribution funds appeared on the 2008 California personal income tax return. Total contributions to these funds have varied from approximately $3.4 million for the 1989 taxable year to approximately $4.2 million for the 2007 taxable year.

The unnamed Fund, previously named the Veteran's Quality of Life Fund, appeared on the 2005 and 2006 tax returns in calendar years 2006 and 2007, respectively. The fund received $135,345 in 2006 and $168,146 in 2007. For tax years beginning on or after January 1, 2007, the Veteran's Quality of Life Fund needed to receive a minimum contribution of $250,000. The fund failed to meet the minimum contribution amount and was subsequently repealed.

OTHER STATES' INFORMATION

The states surveyed include *Illinois, Massachusetts, Michigan, Minnesota,* and *New York.* These states were selected due to their similarities to California's economy, business entity types, and tax laws.

Illinois allows taxpayers to make a voluntary contribution to the Illinois Veterans' Home Fund on the state tax return.

Massachusetts, Michigan, Minnesota, and *New York* allow for taxpayer contribution designations on the personal income tax returns; however, none of these states provide a voluntary contribution comparable to the one proposed by this bill.

FISCAL IMPACT

Implementing this bill would not impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue losses:

Estimated Revenue Impact of AB 1088 Effective On or After January 1, 2010 Enactment Assumed After June 30, 2009		
2009-10	2010-11	2011-12
No Impact	-$15,000	-$15,000

This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

The revenue impact of this bill would be determined by the amount of contributions that could be made to the unnamed Fund for veterans and the subsequent claim of those contributions as itemized deductions.

This analysis assumes the following:

1. This fund would be officially designated for returns starting with the tax year 2010,
2. Contributions would be claimed when the return is filed in the following year, and
3. The minimum contribution ($250,000) would be achieved each year.

If an itemized deduction is claimed for every dollar contributed to the fund and affected taxpayers have an average marginal tax rate of 6%, the estimated revenue loss of this bill would be $15,000 annually ($250,000 x 6% = $15,000).

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1088
As Introduced February 27, 2009

AMENDMENT 1

On page 5, line 23, after "amounts received" insert:

and an estimate of the contributions that will be received